**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO. 1271 OF 2006**

1. Shri Sudhir Subhas Sinhasane,
2. Shri Pratap Masal,
3. Shri Uday Ramchandra Ashtekar,
4. Shri Sunil Vijay Pawar,
5. Shri Sandeep Devendra Magdum. ...Applicants

V/s.

The State of Maharashtra. ...Respondent

Shri Umesh Mankapure with Shri R.V. More for Applicants.
Ms.Rajeshree M. Gadhavi, APP for the State.

**CORAM : V.M. KANADE, J.**

**DATED : APRIL 18, 2006**

**P.C. :-**

. Heard learned Counsel for the applicants and learned APP for the State.

. The applicants have an apprehension that they are likely to be arrested in connection with an offence punishable under Sections 323, 504, 506, 420, 477-A, 467, 468, 471, 147, 148 and 149 of the IPC.

2. It is the case of the applicants that the applicant no.1 is founder and Chairman of Ganpati Peth Vyapari Nagari Sahakari Pat Sanstha and President of

Murga Rajendra Veer Shaiv Lingayat Boarding. He is also Editor of a weekly magazine. It is alleged that the complainant had obtained a loan from the said society and committed default in repaying the loan amount and therefore, the dispute was filed by the Society before the Co-operative Court under Section 91 of the Maharashtra Co-operative Societies Act for the recovery of the amount from the complainant. Thereafter, the complainant also had issued a cheque for an amount of Rs.1,64,452/- in the name of the Sanstha. However, the cheque, after it was presented, was dishonoured and therefore, a statutory notice was issued under Section 138 of the Negotiable Instruments Act to the complainant. It is alleged that as a counter blast, the present complaint has been filed in which it is alleged that the applicants had committed offence under the Atrocities Act.

3. It is submitted that one of the essential requirements of the provisions of Atrocities Act is that the complainant himself must state in the complaint that he belongs to Scheduled Caste and Scheduled Tribe and

the accused belongs to an upper caste. Learned Counsel for the applicants has submitted that this Court in number of cases held that if there is no compliance of this essential requirement, then prima facie case is not made out and the accused is entitled to seek anticipatory bail.

4. Learned APP, on the other hand, has submitted that the signature of the complainant on the loan transaction had been obtained at the point of a gun and therefore, it was essential to interrogate the applicants and to recover the weapon. It is also stated in the affidavit that the complainant was assaulted in the presence of one Peon from the office. This Court in a case of **Ramchandra Govindrao Watkar and Anr. V/s. State of Maharashtra, reported in 1995(2) Mh.L.J. Page 669,** has held that if the Court comes to the conclusion that prima facie, case is not made out in the complaint against the applicant, the applicant can be granted anticipatory bail. The ratio of the judgment is clearly applicable to the facts of the present case. Apart from that, it is apparent that the present complaint has been

filed as a counter blast to the dispute which is filed by the Sanstha for the recovery of the loan amount from the complainant. Further, this complaint has been filed after the statutory notice which was issued under Section 138 of the Negotiable Instruments Act by the applicants herein. The applicants, therefore, has made out a case for grant of anticipatory bail.

5. The applicants, in the event of their arrest in connection with C.R.No.77/2006 may be released on bail in the sum of Rs.10,000/- each with one or two sureties in the like amount. The applicants shall co-operate with the Investigating Agency and shall report to the concerned police station twice in a month and as and when they are called.

. The application is disposed of in the above terms.

**(V.M. Kanade, J.)**